

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

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4 UNITED STATES OF AMERICA, : 11-CR-005(SLT)  
5 Plaintiff , :  
6 -against- : United States Courthouse  
7 BARTOLOMEO VERNACE, : Brooklyn, New York  
8 Defendant. : April 15, 2013  
9 : 09:30 o'clock a.m.  
10 - - - - - X

11 TRANSCRIPT OF TRIAL  
12 BEFORE THE HONORABLE SANDRA L. TOWNES  
13 UNITED STATES DISTRICT JUDGE, and a jury.

14 APPEARANCES:

15 For the Government: LORETTA LYNCH  
16 United States Attorney  
17 BY: EVAN M. NORRIS  
18 AMIR TOOSSI  
19 KRISTIN MACE  
20 Assistant United States Attorneys  
21 271 Cadman Plaza East  
22 Brooklyn, New York

23 For the Defendant: CHARLES F. CARNESI, ESQ.  
24 1225 Franklin Avenue  
25 Garden City, New York 11530

JOSEPH DiBENEDETTO, ESQ.  
233 Broadway  
New York, New York 10270

1 Also Present: Special Agent Paul Tambrino  
2 Special Agent Jeffrey Tarklin  
Paralegal Shernita Moore

3 Court Reporter: Charleane M. Heading  
4 225 Cadman Plaza East  
5 Brooklyn, New York  
(718) 613-2643

6 Proceedings recorded by mechanical stenography, transcript  
7 produced by computer-aided transcription.

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14 (In open court; outside the presence of the jury.)

15 THE CLERK: Criminal cause for trial. Docket Number  
16 11-CR-005. United States versus Bartolomeo Vernace.

17 Counsel, please state your names for the record.

18 MR. NORRIS: For the record, Evan Norris, Shernita  
19 Moore for the government. Good morning, Your Honor.

20 THE COURT: Good morning.

21 MR. CARNESI: Good morning, Your Honor. Charles  
22 Carnesi and Joseph DiBenedetto appearing for Mr. Vernace.

23 THE COURT: Good morning.

24 We have a note from the jury which we have marked  
25 Court Exhibit P. May we listen to 321A. Is that dash T? 321

1 A-T?

2 MR. NORRIS: It looks like they're identifying the  
3 transcript.

4 THE COURT: A through T, tab 7, 321B through T, tab  
5 8, with transcripts.

6 All right. So are we ready? All right. We'll  
7 bring the jury in.

8 (Jury enters.)

9 THE COURT: Good morning. Please be seated.

10 The jurors are present, the defendant and counsel.  
11 I have a note signed by Juror Number One and dated today. We  
12 have -- this is Court Exhibit P: May we listen to 321 A-T,  
13 tab 7, 321 B-T, tab 8, with transcripts.

14 So we have that for you at this time.

15 MR. NORRIS: Needless to say, the first recording  
16 will be tab 7. The second, tab 8.

17 THE COURT: Okay. Let's wait until everybody is  
18 ready.

19 All right. Everyone is ready? Yes.

20 (Audio played.) (Audio stopped.)

21 MR. NORRIS: And now tab 8, please.

22 (Audio played.) (Audio stopped.)

23 THE COURT: All right. We've finished with the  
24 recordings. You may resume your deliberations.

25 (Jury exits.)

1 THE COURT: All right. We'll wait for the next  
2 note.

3 (Court is in recess awaiting verdict of the jury.)

4 (Continued on next page.)

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1 (In open court; outside the presence of the jury.)

2 THE COURT: Everybody is present, all counsel, the  
3 defendant, and I have three notes from the jury.

4 May we have the transcript of Anthony Ruggiano,  
5 Jr.'s testimony.

6 And have the parties gone through it and removed the  
7 objections and the Court's rulings?

8 MR. NORRIS: Yes, we have.

9 MR. DiBENEDETTO: We have, Judge.

10 THE COURT: This is Court Exhibit Q.

11 Court Exhibit R is another note.

12 Can we please have certain pages from Howie Santos'  
13 testimony. Pages 1241, 1430, 1431, 2466, 2467, 2552, 2553 and  
14 1249.

15 Were you able to find those?

16 MR. NORRIS: The four pages in the thousands series  
17 are all from Santos. We've prepared them. They're in front  
18 of Ms. Frullo. I think the parties have no objection to  
19 providing those.

20 The pages starting in the 2000s --

21 THE COURT: Yes.

22 MR. NORRIS: -- these are all from other witnesses.  
23 We can certainly provide them, but I guess the jury should  
24 just be informed those are not from Santos and we can provide  
25 these if the jury wants.

1 THE COURT: All right. And they want to listen to  
2 the wiretaps of Caffe Vita, specifically tab 76.

3 MR. NORRIS: We've got that ready.

4 THE COURT: Okay. And Court Exhibit S.

5 May we have Exhibits 1 through 18 and Anthony  
6 Ruggiano, Jr.'s telephone book.

7 MR. NORRIS: The telephone books we provided in  
8 front of Ms. Frullo. Exhibits 1 through 18 are the two head  
9 shot boards and the first of the head shots. The jury has all  
10 of them. So if there's been a mistake there, so if we can  
11 just inform them, they have 1 through 18 and if they could  
12 clarify what they're asking for in that regard.

13 THE COURT: All right. And you agree?

14 MR. CARNESI: Yes.

15 THE COURT: -- with that?

16 And also that the pages from Howard Santos'  
17 testimony, 1241, 1430, 1431 and 1249 are all Howard Santos?

18 MR. CARNESI: Yes, Your Honor.

19 THE COURT: The others, other pages are not.

20 MR. NORRIS: Correct.

21 THE COURT: Okay. So I'm going to bring them in,  
22 not to listen to the recording because I'm going to do that  
23 after lunch, but to tell them about Exhibits 1 through 18 and  
24 those pages that are not part of Howard Santos' testimony.

25 MR. NORRIS: For what it's worth, Your Honor, the

1 recording is about one minute long.

2 THE COURT: Oh, really?

3 MR. NORRIS: It is one single wiretap recording. It  
4 is a page and a quarter of transcript. We're happy to come  
5 back later. We wanted to inform the Court.

6 THE COURT: No, we just -- are we ready to do it?

7 MR. NORRIS: We are. The transcript binders are on  
8 the chairs.

9 THE COURT: Okay. Then we can do that now.

10 THE CLERK: I'll get the jurors in.

11 THE COURT: We'll bring the jury in.

12 MR. NORRIS: Your Honor, just for the record, the  
13 Ruggiano phonebooks are Exhibits 703 and 704.

14 (Jury enters.)

15 THE COURT: Please be seated.

16 The jurors are present, the defendant and Counsel.

17 I have a note that we have labeled Court Exhibit Q.

18 May we have the transcript of Anthony Ruggiano,  
19 Jr.'s testimony. We have that ready for you.

20 We also have another note, Court Exhibit R.

21 Can we have these certain pages from Howie Santos'  
22 testimony. And you have pages listed here.

23 All of this is not Howard Santos' testimony. Pages  
24 1241, 1430, 1431 and 1249 are pages from Howard Santos'  
25 testimony. Pages 2466, 2467, 2552 and 2553 are not part of

1 Howard Santos' testimony. You may send me another note once  
2 you get back if you'd like to.

3 And you asked to listen to the wiretaps of Caffè  
4 Vita, specifically tab 76. So we're prepared to play that for  
5 you now when the jurors are ready.

6 Is there anyone who is not ready? All right. You  
7 may start.

8 (Audio played.) (Audio stopped.)

9 THE COURT: All right. So now that that wiretap has  
10 been played, I'll go on to Court Exhibit S, another note.

11 May we have Exhibits 1 through 18 and Anthony  
12 Ruggiano, Jr.'s phonebooks.

13 You have Exhibits 1 through 18. They are head  
14 shots. And Anthony Ruggiano, Jr.'s phonebooks. There are  
15 two, Exhibits 703 and 704 which we will send to you.

16 All right. So that completes my reading of the  
17 notes.

18 Any corrections, objections or additions --

19 MR. NORRIS: No, Your Honor.

20 THE COURT: -- from the defense?

21 MR. CARNESI: No.

22 THE COURT: All right. We'll send you back out.

23 (Jury exits.)

24 THE COURT: Ms. Frullo went down to get their lunch.  
25 It's here so she's going to take that in and then we'll have



1 her take in the other items that they requested.

2 MR. NORRIS: Thank you, Your Honor.

3 THE COURT: Okay.

4 (Court is in recess awaiting verdict of the jury.)

5 (Continued on next page.)

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1           (In open court; outside the presence of the  
2 defendant and the jury.)

3           THE COURT: Mr. Carnesi and Mr. DiBenedetto, with  
4 regard to the clip from the audiotape, tab 79, of Caffè Vita  
5 wiretaps, they want that in the deliberation room and  
6 Mr. Norris. I'm sorry. I just saw Mr. DiBenedetto and  
7 Mr. Carnesi walking in the courtroom. You've agreed that you  
8 can prepare just that clip.

9           MR. CARNESI: Yes, the technology is there to do it.

10          THE COURT: It's okay.

11          MR. CARNESI: It's going to take a little bit of  
12 time because they're going to have to go back to the office  
13 and do it. They don't have the technology here but yes.

14          THE COURT: They want an additional copy of the  
15 verdict sheet and they are requesting exhibit -- oh, we don't  
16 have the defendant here.

17          THE CLERK: The defendant is up, Judge.

18          THE COURT: Yes, I would like for him to be present  
19 when I read the note.

20          (Defendant present.)

21          THE COURT: All right. The defendant is present as  
22 well as Counsel.

23                I have a note from the jury which we have marked  
24 Court Exhibit T and they make three requests on the note.

25                We are requesting Exhibit No. 118, postcard of

1 JFK Airport Hilton. We would like to listen to audiotape tab  
2 number 79 of the Caffé Vita wiretap in our deliberation room.

3 We're going to make arrangements to do that and to  
4 make a copy just of that clip from the exhibit which is in  
5 evidence and everyone has agreed on that.

6 MR. NORRIS: Yes. We certainly have, Your Honor.

7 MR. CARNESI: Yes.

8 THE COURT: All right. The government and the  
9 defendant.

10 MR. NORRIS: And just so the record is clear, we'll  
11 label that, even though that clip by itself isn't in evidence,  
12 we'll label the CD that Ms. Moore is creating with the  
13 specific, I think it is 301DD, but whatever it ends up being,  
14 just the exhibit number for that clip so the record is clear  
15 what's now going into the jury room.

16 MR. CARNESI: Fine.

17 THE COURT: Okay. So if you can get together to do  
18 that. And they have also requested: May we have an  
19 additional copy of the verdict sheet.

20 So we can send in, if there's no objection,  
21 Exhibit 118 and the copy of the verdict sheet.

22 MR. NORRIS: No objection.

23 MR. CARNESI: No objection.

24 THE COURT: And you'll let me know when you've made  
25 that clip.

1           MR. NORRIS: We'll bring it right up to the  
2 courtroom deputy as soon as we're done.

3           THE COURT: All right.

4           MR. NORRIS: Thank you.

5           MR. CARNESI: Thank you.

6           (Court is in recess awaiting verdict of the jury.)  
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1 (In open court; outside the presence of the jury.)

2 THE COURT: I'm going to bring the jury in because  
3 they have sent a note, U, which we've marked as Court  
4 Exhibit U.

5 May we please have the recordings recorded by Howie  
6 Santos --

7 How did we get to "Howie"?

8 -- specifically 341 T through 346 T. And it's  
9 signed by the foreperson.

10 I'm going to bring them in, but I'm also going to  
11 tell them that we have to stop at 5 o'clock, that we can't go  
12 after 5:00 which I didn't know when we started initially.

13 All right. We'll bring them in.

14 MR. CARNESI: Judge, are you going to inquire as to  
15 where?

16 THE COURT: Oh, yes. I'm going to ask them also  
17 whether they want to do it in the courtroom or the jury room.

18 MR. CARNESI: So I'm assuming you're just going to  
19 tell them that it's going to take some time if they want to do  
20 it here to set it up and we'll do it tomorrow.

21 THE COURT: Well, either way, they're going to have  
22 to do it tomorrow, but they have to send me a note telling me.

23 They asked me to wait two minutes. So we'll wait  
24 two minutes.

25 (Pause.)

1 MR. NORRIS: Better than ASAP.

2 MR. CARNESI: First it's "Howie" and we lost  
3 complete control. I mean, did we call him "Howie"?

4 MR. CARNESI: Yes.

5 THE COURT: Okay.

6 (Jury enters.)

7 THE COURT: Please be seated.

8 The jury is present, the defendant and Counsel.

9 Let me go over Court Exhibit T which is a note  
10 signed by the foreperson and I didn't have you in, but you  
11 requested Exhibit No. 118, the postcard of JFK Airport Hilton.  
12 We sent that in.

13 We would like to listen to the audiotape tab number  
14 79 of Caffé Vita wiretaps in our deliberation room.

15 We made arrangements for that and sent in the  
16 audiotape.

17 May we have an additional copy of the verdict sheet.  
18 We sent that in also.

19 Now, I have what we have marked as Court Exhibit U.

20 May we please have the recordings recorded by Howie  
21 Santos, specifically 341T through 346T. And that's signed by  
22 the foreperson, Juror Number One.

23 We will have this for you, however, I have a  
24 question and I'm going to need a note from you. Please send  
25 me a note to tell me whether you wish to hear the recordings

1 here in the courtroom or in the jury room. So let me know  
2 that. Also, and we'll have it ready for you tomorrow morning.

3 Also, I made it seem like you could stay late. You  
4 may not, however, because of the budget cuts, we have to end  
5 at 5:00. So what we'll do is get it ready for you once I get  
6 your note and begin with that in the morning.

7 Any request or objections?

8 MR. NORRIS: My sense is from the jury's reaction  
9 that the verdict sheet may not have made it to the jury room.

10 THE COURT: Did you take it in?

11 THE CLERK: I'll get another one.

12 THE COURT: Okay. All right. Anything?

13 MR. CARNESI: No, Your Honor.

14 THE COURT: We'll send you back in. Thank you.

15 Have a good evening. Remember my admonitions. Do not discuss  
16 this case or allow anyone to discuss it in your presence when  
17 you are out of the jury room.

18 (Jury exits.)

19 THE COURT: All right. Ms. Frullo will make another  
20 copy and give it to them.

21 (Pause.)

22 (Defendant not present.)

23 THE COURT: They would like the recording sent to  
24 the jury room. We'll have this marked.

25 THE CLERK: V, Judge.

1 THE COURT: Okay. See you tomorrow.

2 MR. CARNESI: Thank you, Judge.

3 MR. NORRIS: Good night, Your Honor.

4 (Matter adjourned to April 17, 2013 at 9:30 a.m.)

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